

Remarks

Upon entry of this amendment, claims 16-21 and 23-31 will be pending in the application. Claim 22 is canceled. Claims 16-21 and 23-29 are subject to a restriction and election requirement. Claims 16, 23, 24, 25, and 27 are amended as discussed below. New claims 30 and 31 are added, support being found for example in the original claims. No new matter is added.

Restriction Requirement

On pages 2-3 of the Office Action, restriction is required under 35 U.S.C. 121 and 372. The Examiner states that the application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1, and requires Applicants to elect a single invention to which the claims must be restricted.

- Group I, claim(s) 16-29 (in part), drawn to R5 = 3-oxo-3,4-dihydro-2H-pyrido[3,2-b][1,4]thiazine derivatives (see Examples 1, 2 and 3)
- Group II, claim(s) 16-29 (in part), drawn to R5 = 3-oxo-3,4-dihydro-2H-pyrido[3,2-b][1,4]oxazine derivatives (see Example 7 and 9)
- Group III, claim(s) 16-29 (in part), drawn to R5 = 2,3-dihydro-[1,4]dioxino[2,3-c]pyridine derivatives (see Example 35)
- Group IV, claim(s) 16-29 (in part), drawn to R5 = others

The Examiner posits that the inventions listed as Groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the special technical feature of Group I is a pyrido[3,2-b][1,4]thiazine ring and is different from the special technical feature of Groups II-IV. The special technical feature of Group II is a pyrido[3,2-b][1,4]oxazine ring and this special technical feature is not present in the special technical feature of other Groups. The special technical feature of Group III is a [1,4]dioxino[2,3-c]pyridine and is different from the special technical feature of Groups I-II or IV. The special technical feature of Group IV is others (i.e. core structures that don't fall in Groups I-III, e.g. bicyclic carbocyclic ring) and is different from the special technical feature of Groups I-III.

In addition, if Group IV is elected, an election of a single species is required.

Applicants elect Group III ($R^5 = 2,3\text{-dihydro-[1,4]dioxino[2,3-c]pyridine derivatives}$) for initial examination. Applicants understand this to encompass the optionally substituted embodiments of this moiety as supported by the specification. Solely to advance prosecution, Applicants have canceled the non-elected subject matter. In particular, Applicants have amended the definition of formula (I) in claim 16 to reflect the elected subject matter. Applicants note that this definition permits substitution on the group R^5 as set forth in the claims (see R^{14} , R^{15} in regard to the definition of R^5). Consequential amendments to claim 23 and 24 are made. Support for this amendment is found, for example, in the claims as originally filed and in the examples.

Additional amendments are made to claim 16, 24, 25 and 27 to recite pharmaceutically acceptable salts and/or N-oxides, and/or to put them into better form for U.S. practice. Support may be found, for example, in the specification at page 14, lines 31-36.

Claims 16-21 and 23-31 as amended encompass the elected invention.

Applicants reserve the right to prosecute, in one or more patent applications, any canceled claims, claims to non-elected inventions, claims as originally filed, and any other claims supported by the specification.

Conclusion:

All issues raised by the Examiner have been addressed. Should any issues remain to be resolved in the present application, the Examiner is invited to contact the undersigned Attorney for Applicants.

Respectfully submitted,

/LorettaJSauermelch/

Loretta J. Sauermelch
Attorney for Applicants
Registration No. 37,347

GlaxoSmithKline Corporation
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939
Phone (610) 270-6854
Facsimile (610) 270-5090

N:\Loretta\Applications\P3's\I33070\Restriction Response